

INTERMOUNTAIN EXPLORATION CO.

IBLA 81-845

Decided August 31, 1981

Appeal from decision of Nevada State Office, Bureau of Land Management, declaring mining claims abandoned and void. N MC 1871 and N MC 1872.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment -- Mining Claims: Abandonment

The failure to file the instruments required by sec. 314 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976), and 43 CFR 3833.1 and 3833.2 in the proper Bureau of Land Management office within the time periods prescribed therein conclusively constitutes abandonment of the mining claim by the owner.

2. Notice: Generally -- Regulations: Generally -- Statutes

All persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations.

APPEARANCES: Richard V. Wyman, for appellant.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Intermountain Exploration Company has appealed an undated decision, received July 2, 1981, by which the Nevada State Office, Bureau of Land Management (BLM), declared the Wall #4 and Wall #3 lode mining claims, N MC 1871 and N MC 1872, abandoned and void because no proof of labor or notice of intent to hold the claims had been filed with BLM on or before December 30, 1977, and December 30, 1978, as required by 43 CFR 3833.2, implementing the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976). The claims had been located December 15, 1976, and the notices of location were recorded with BLM

March 14, 1977. Intermountain acquired title to the claims March 25, 1980, by a quitclaim deed from Consolidated Eldorado Mining Company, the original locator.

[1, 2] Section 314(a) of FLPMA, 43 U.S.C. § 1744(a) (1976), provides that the owner of an unpatented mining claim located after October 21, 1976, shall, prior to December 31 of each year following the calendar year in which the claim was located, file for record in the office where the location notice is recorded a notice of intent to hold or an affidavit of assessment work performed for the claim, and shall also file a copy of the official record of the instrument with the proper office of BLM. Section 314(c) provides that the failure to file the instruments required in section 314(a) shall be deemed conclusively to constitute abandonment of the mining claim.

As the Wall #4 and Wall #3 claims were located in December 1976, it was mandatory under FLPMA that a notice of intent to hold or a proof of labor for the two claims be filed with BLM on or before December 30, 1977. The record does not reflect that either instrument was filed, and appellant has not alleged that the instruments were, in fact, filed with BLM.

It is regrettable that appellant was misled by some ineptness by BLM, which issued a decision June 9, 1980, declaring the Wall #4 and Wall #3 claims abandoned and void, and then erroneously vacated that decision by another dated June 20, 1980. Appellant avers that the claims were relocated following the June 9 decision, but the locations were not perfected by recordation with BLM because of the June 20 decision. Unfortunately, all persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations. Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Donald H. Little, 37 IBLA 1 (1978); 44 U.S.C. §§ 1507, 1510 (1976). This Board has no authority to excuse lack of compliance with mandatory requirements set forth in the statute nor to afford relief from the statutory consequences of conclusive abandonment. Lynn Keith, 55 IBLA 192, 88 I.D. 369 (1981).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Douglas E. Henriques
Administrative Judge

We concur:

Bernard V. Parrette
Chief Administrative Judge

Gail M. Frazier
Administrative Judge

